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Attorneys for Defendant,
MBAL, LLC, a California limited liability company

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SCOTT JOHNSON,

Plaintiff,

v.

ALBERTO S. GUZMAN, TRUSTEE;
ANNA VIRGINIA GUZMAN, TRUSTEE;
MBAL, LLC, a California Limited Liability
Company; and Does 1-10,

Defendants.

Case No. 3:16-cv-05105-VC

ANSWER OF DEFENDANT MBAL, LLC

Defendant MBAL, LLC, a California limited liability company (hereinafter "Defendant"), for itself only and for no other party, by and through its attorneys the Ramsey Law Group, hereby respond to the Complaint. Defendant reserves the right to amend, add or strike affirmative defenses due to any inadvertence. Defendant further reserves the right to raise any affirmative defense which is subsequently discovered, and admits such as a defense at trial.

1. Answering the allegations of Paragraph 1, Defendant currently lacks sufficient information and belief as to the truth of the allegations in this paragraph, and on this basis, denies those allegations.

2. . Answering the allegations of Paragraph 2, Defendant currently lacks sufficient

1 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
2 those allegations.

3 3. . Answering the allegations of Paragraph 3, Defendant currently lacks sufficient
4 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
5 those allegations.

6 4. Answering the allegations of Paragraph 4, Defendant currently lacks sufficient
7 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
8 those allegations.

9 5. Answering the allegations of Paragraph 5, Defendant currently lacks sufficient
10 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
11 those allegations.

12 6. Answering the allegations of Paragraph 6, Defendant currently lacks sufficient
13 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
14 those allegations.

15 7. Answering the allegations of Paragraph 7, Defendant currently lacks sufficient
16 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
17 those allegations. Answering the allegations of Paragraph 7, Defendant denies the allegations in
18 this paragraph.

19 8. Answering the allegations of Paragraph 8, Defendant currently lacks sufficient
20 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
21 those allegations.

22 9. Answering the allegations of Paragraph 9, Defendant currently lacks sufficient
23 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
24 those allegations

25 10. Answering the allegations of Paragraph 10, Defendant currently lacks sufficient
26 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
27 those allegations.

28 11. Answering the allegations of Paragraph 11, Defendant currently lacks sufficient

1 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
2 those allegations

3 12. Answering the allegations of Paragraph 12, Defendant currently lacks sufficient
4 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
5 those allegations.

6 13. Answering the allegations of Paragraph 13, Defendant currently lacks sufficient
7 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
8 those allegations.

9 14. Answering the allegations of Paragraph 14, Defendant currently lacks sufficient
10 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
11 those allegations.

12 15. Answering the allegations of Paragraph 15, Defendant denies the allegations in this
13 paragraph.

14 17. Answering the allegations of Paragraph 16, Defendant denies the allegations in this
15 paragraph.

16 18. Answering the allegations of Paragraph 17, Defendant denies the allegations in this
17 paragraph.

18 19. Answering the allegations of Paragraph 18, Defendant denies the allegations in this
19 paragraph.

20 20. Answering the allegations of Paragraph 20, Defendant denies the allegations in this
21 paragraph.

22 21. Answering the allegations of Paragraph 21, Defendant currently lacks sufficient
23 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
24 those allegations.

25 22. Answering the allegations of Paragraph 22, Defendant admits only that the Court's
26 jurisdiction appears to be appropriate pursuant to 28 U.S.C. section 1331.

27 23. Answering the allegations of Paragraph 23, Defendant admits only that the Court has
28 jurisdiction under the "readily achievable standard" of the Americans with Disabilities Act of

1 24. Answering the allegations of Paragraph 24, Defendant admits only that venue is
2 proper in this court but denies that Plaintiff possesses any cause of action.

3 25. Answering the allegations of Paragraph 25, Defendant currently lacks sufficient
4 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
5 those allegations.

6 26. Answering the allegations of Paragraph 26, Defendant currently lacks sufficient
7 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
8 those allegations.

9 27. Answering the allegations of Paragraph 27, Defendant currently lacks sufficient
10 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
11 those allegations.

12 28. Answering the allegations of Paragraph 28, Defendant currently lacks sufficient
13 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
14 those allegations.

15 29. Answering the allegations of Paragraph 29, Defendant currently lacks sufficient
16 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
17 those allegations.

18 30. Answering the allegations of Paragraph 30, Defendant currently lacks sufficient
19 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
20 those allegations.

21 31. Answering the allegations of Paragraph 31, Defendant currently lacks sufficient
22 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
23 those allegations.

24 32. Answering the allegations of Paragraph 32, Defendant currently lacks sufficient
25 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
26 those allegations.

27 33. Answering the allegations of Paragraph 33, Defendant currently lacks sufficient
28 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies

1 those allegations.

2 34. Answering the allegations of Paragraph 34, Defendant currently lacks sufficient
3 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
4 those allegations.

5 35. Answering the allegations of Paragraph 35, Defendant currently lacks sufficient
6 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
7 those allegations.

8 36. Answering the allegations of Paragraph 36, Defendant currently lacks sufficient
9 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
10 those allegations.

11 37. Answering the allegations of Paragraph 37, Defendant currently lacks sufficient
12 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
13 those allegations.

14 38. Answering the allegations of Paragraph 38, Defendant currently lacks sufficient
15 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
16 those allegations.

17 39. Answering the allegations of Paragraph 39, Defendant currently lacks sufficient
18 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
19 those allegations.

20 40. Answering the allegations of Paragraph 40, Defendant currently lacks sufficient
21 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
22 those allegations.

23 41. Answering the allegations of Paragraph 41, Defendant currently lacks sufficient
24 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
25 those allegations.

26 42. Answering the allegations of Paragraph 42, Defendant currently lacks sufficient
27 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
28 those allegations.

1 43. Answering the allegations of Paragraph 43, Defendant currently lacks sufficient
2 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
3 those allegations.

4 44. Answering the allegations of Paragraph 44, Defendant currently lacks sufficient
5 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
6 those allegations.

7 45. Answering the allegations of Paragraph 45, Defendant currently lacks sufficient
8 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
9 those allegations.

10 46. Answering the allegations of Paragraph 46, Defendant currently lacks sufficient
11 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
12 those allegations.

13 47. Answering the allegations of Paragraph 47, Defendant currently lacks sufficient
14 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
15 those allegations.

16 48. Answering the allegations of Paragraph 48, Defendant currently lacks sufficient
17 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
18 those allegations.

19 49. Answering the allegations of Paragraph 49, Defendant currently lacks sufficient
20 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
21 those allegations.

22 50. Answering the allegations of Paragraph 50, Defendant currently lacks sufficient
23 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
24 those allegations.

25 51. Answering the allegations of Paragraph 51, Defendant currently lacks sufficient
26 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
27 those allegations.

28 52. Answering the allegations of Paragraph 52, Defendant currently lacks sufficient

1 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
2 those allegations.

3 53. Answering the allegations of Paragraph 53, Defendant currently lacks sufficient
4 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
5 those allegations.

6 54. Answering the allegations of Paragraph 54, Defendant currently lacks sufficient
7 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
8 those allegations.

9 55. Answering the allegations of Paragraph 55, Defendant currently lacks sufficient
10 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
11 those allegations.

12 56. Answering the allegations of Paragraph 56, Defendant currently lacks sufficient
13 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
14 those allegations.

15 57. Answering the allegations of Paragraph 57, Defendant currently lacks sufficient
16 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
17 those allegations.

18 58. Answering the allegations of Paragraph 58, Defendant currently lacks sufficient
19 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
20 those allegations.

21 59. Answering the allegations of Paragraph 59, Defendant currently lacks sufficient
22 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
23 those allegations.

24 60. Answering the allegations of Paragraph 60, Defendant currently lacks sufficient
25 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
26 those allegations.

27 61. Answering the allegations of Paragraph 61, Defendant currently lacks sufficient
28 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies

1 those allegations.

2 62. Answering the allegations of Paragraph 62, Defendant currently lacks sufficient
3 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
4 those allegations.

5 63. Answering the allegations of Paragraph 63, Defendant currently lacks sufficient
6 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
7 those allegations.

8 64. Answering the allegations of Paragraph 64, Defendant currently lacks sufficient
9 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
10 those allegations.

11 65. Answering the allegations of Paragraph 65, Defendant currently lacks sufficient
12 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
13 those allegations.

14 66. Answering the allegations of Paragraph 66, Defendant currently lacks sufficient
15 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
16 those allegations.

17 67. Answering the allegations of Paragraph 67, Defendant currently lacks sufficient
18 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
19 those allegations.

20 68. Answering the allegations of Paragraph 68, Defendant currently lacks sufficient
21 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
22 those allegations.

23 69. Answering the allegations of Paragraph 69, Defendant currently lacks sufficient
24 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
25 those allegations.

26 70. Answering the allegations of Paragraph 70, Defendant currently lacks sufficient
27 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
28 those allegations.

1 71. Answering the allegations of Paragraph 71, Defendant currently lacks sufficient
2 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
3 those allegations.

4 72. Answering the allegations of Paragraph 72, Defendant currently lacks sufficient
5 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
6 those allegations.

7 73. Answering the allegations of Paragraph 73, Defendant currently lacks sufficient
8 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
9 those allegations.

10 74. Answering the allegations of Paragraph 74, Defendant currently lacks sufficient
11 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
12 those allegations.

13 75. Answering the allegations of Paragraph 75, Defendant denies the allegations in this
14 paragraph.

15 76. Answering the allegations of Paragraph 76, Defendant currently lacks sufficient
16 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
17 those allegations.

18 77. Answering the allegations of Paragraph 77, Defendant currently lacks sufficient
19 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
20 those allegations.

21 **FIRST CAUSE OF ACTION**
22 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

23 78. Defendant re-alleges and incorporates its responses to paragraphs 1-77 as if
24 specifically pled herein.

25 79. Answering the allegations of Paragraph 79, it contains statements of law and policy
26 which are not allegations that Defendant can or is required to respond to under the Federal Rules
27 of Civil Procedure. Defendant denies all other allegations in this paragraph.

28 80. Answering the allegations of Paragraph 80, it contains statements of law and policy

1 which are not allegations that Defendant can or is required to respond to under the Federal Rules
2 of Civil Procedure. Defendant denies all other allegations in this paragraph.

3 81. Answering the allegations of Paragraph 81, it contains statements of law and policy
4 which are not allegations that Defendant can or is required to respond to under the Federal Rules
5 of Civil Procedure. Defendant denies all other allegations in this paragraph.

6 82. Answering the allegations of Paragraph 82, Defendant currently lacks sufficient
7 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
8 those allegations.

9 83. Answering the allegations of Paragraph 83, Defendant currently lacks sufficient
10 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
11 those allegations.

12 84. Answering the allegations of Paragraph 84, Defendant currently lacks sufficient
13 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
14 those allegations.

15 85. Answering the allegations of Paragraph 85, it contains statements of law and policy
16 which are not allegations that Defendant can or is required to respond to under the Federal Rules
17 of Civil Procedure. Defendant denies all other allegations in this paragraph.

18 86. Answering the allegations of Paragraph 86, Defendant currently lacks sufficient
19 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
20 those allegations.

21 87. Answering the allegations of Paragraph 87, Defendant currently lacks sufficient
22 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
23 those allegations. 25. Further answering the allegations of Paragraph 87, Defendant denies that it
24 discriminated or will discriminate against Plaintiff, any similarly situated persons, or anyone else,
25 or that it lacks any accessible facilities, and otherwise currently lacks sufficient information and
26 belief as to the truth of the allegations in this paragraph, and on this basis, denies those
27 allegations.

28 .

1 WHEREFORE Defendant MBAL, LLC prays judgment as set forth below.

2 **SECOND CAUSE OF ACTION**
3 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

4 88. Defendant re-alleges and incorporates its responses to paragraphs 1-87 as if
5 specifically pled herein.

6 89. Answering the allegations of Paragraph 89, Defendant denies the allegations in this
7 paragraph.

8 90. Answering the allegations of Paragraph 90, Defendant denies the allegations in this
9 paragraph.

10
11 91. Answering the allegations of Paragraph 91, Defendant currently lacks sufficient
12 information and belief as to the truth of the allegations in this paragraph, and on this basis, denies
13 those allegations.

14 WHEREFORE Defendant MBAL, LLC prays judgment as set forth below.

15 .

16 **AFFIRMATIVE DEFENSES**

17 **FIRST AFFIRMATIVE DEFENSE**

18 **(Failure to State a Claim)**

19 Defendant alleges on information and belief that the Complaint and each and every cause
20 of action therein fail to state a claim upon which relief may be granted.

21 **SECOND AFFIRMATIVE DEFENSE**

22 **(Statutes of Limitations)**

23 Defendant alleges on information and belief that the Complaint, and each and every cause
24 of action therein, is barred by the applicable statutes of limitations.

25 **THIRD AFFIRMATIVE DEFENSE**

26 **(Laches)**

27 Defendant alleges that Plaintiff's delay in asserting his allegations have resulted in
28 prejudice to Defendant and thus, Plaintiff should be denied relief under the doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE

(Unclean Hands)

Defendant is informed and believes and thereon alleges that the doctrine of unclean hands bars Plaintiff's claims.

FIFTH AFFIRMATIVE DEFENSE

(Estoppel)

Defendant is informed and believe and thereon alleges that the Complaint, and each and every cause of action therein, is barred by the doctrine of estoppel.

SIXTH AFFIRMATIVE DEFENSE

(Estoppel)

Defendant is informed and believes and thereon alleges that the Complaint, and each and every cause of action therein, is barred by the doctrine of waiver.

SEVENTH AFFIRMATIVE DEFENSE

(Defendants' Good Faith)

Defendant alleges that at all times relevant to the Complaint, Defendant has acted on a good faith, reasonable and permissible interpretation of disabled access laws and provisions and approvals and building permits exemptions and/or waivers issued by governmental agencies regarding disabled access elements of the Property which precludes or limits any recovery by Plaintiff based on the allegations of the Complaint.

EIGHTH AFFIRMATIVE DEFENSE

(Good Faith Reliance)

Defendant alleges that at all times relevant to the Complaint, Defendant has relied, in good faith upon the advice of architects and/or designers, contractors, building permit inspectors, government authorities etc. who provided evaluation, approval consultation and or exemptions, which precludes or limits any recovery by Plaintiff based on the allegations of the Complaint.

NINTH AFFIRMATIVE DEFENSE

(Reliance Upon Municipal Permits/Vested Rights)

Defendant alleges that all applicable legal requirements pertaining to access to the

1 Property by disabled persons have been complied in that all necessary permits and/or certificates,
2 including certificates of occupancy, have been obtained from the appropriate authorities relating
3 to construction, alteration and/or modification of the Property, that Defendant reasonably relied
4 upon the powers vested in those authorities and that such permits conferred vested rights in
5 Defendant, which precludes or limits any recovery by Plaintiff based on the allegations of the
6 Complaint.

7 **TENTH AFFIRMATIVE DEFENSE**

8 **(Legitimate Business Purpose)**

9 Defendant alleges that that Plaintiff's recovery in this action is barred because
10 Defendant's acts or omissions, as alleged in the Complaint, if any were committed, were done in
11 good faith reliance on validly issued building permits and certificates, including a certificate of
12 occupancy, pursuant to reasonable business justifications and do not constitute acts or omissions
13 resulting in any discrimination against Plaintiff, or any disabled persons or anyone else.

14 **ELEVENTH AFFIRMATIVE DEFENSE**

15 **(De Minimis Deviations)**

16 Defendant alleges that Plaintiff's Complaint, and each claim for relief stated therein, fail
17 to state claims for relief as the alleged accessibility violations constitute *de minimis* deviations
18 from state or federal access laws, codes, regulation or guidelines or are within construction
19 tolerances.

20 **TWELFTH AFFIRMATIVE DEFENSE**

21 **(Not Readily or Likely Achievable)**

22 Defendant alleges that the "new construction" and "alterations" standards of the ADA and
23 California Building Code do not apply to the Property, and that the "readily achievable" barrier
24 removal standard is the only standard applicable to the Property. Defendant further alleges that
25 the proposed access changes are not "readily achievable" as defined by applicable access law, in
26 that any further action by Defendant to ensure that no individual with a disability is excluded,
27 denied services, or otherwise treated differently, would result in a fundamental alteration of the
28 Property, is not technically feasible or is not structurally readily achievable.

THIRTEENTH AFFIRMATIVE DEFENSE**(Equivalent Facilitations)**

Defendant alleges that at all times relevant to the Complaint, Defendant made available to Plaintiff, as well as to other similarly situated disabled individuals, equivalent facilitations which provide full and equal access to the goods, services, accommodations and privileges offered by Defendant to the general public. Defendant contends that reasonable portions of the Property and accommodations normally sought and used by the public are accessible to, and useable by, persons with disabilities. Thus, any recovery by Plaintiff based on the allegations of the Complaint is limited or precluded.

FOURTEENTH AFFIRMATIVE DEFENSE**(Reasonable Portion of Premises Accessible)**

Defendant is informed and believe and thereon alleges that the Property does not violate any codes, law, regulations or provisions alleged in the Complaint because a reasonable portion of the Property and the accommodations normally sought and used by the public are accessible to and useable by Plaintiff and all persons with disabilities.

FIFTEENTH AFFIRMATIVE DEFENSE**(No Standing)**

Defendant alleges that Plaintiff lacks standing to maintain this action and each cause of action contained in this action in that Plaintiff was a “tester,” and/or not a bona fide patron of the facility, and/or visited the facility for the purpose of bringing this litigation.

SIXTEENTH AFFIRMATIVE DEFENSE**(No Standing – No Injury In Fact)**

Defendant alleges that Plaintiff lacks standing because Plaintiff did not suffer any injury in fact, and did not suffer an actual or imminent injury as required by applicable law.

SEVENTEENTH AFFIRMATIVE DEFENSE**(No Standing – Article III)**

Plaintiff lacks standing under the California Civil Code and/or Article III of the United States Constitution and cannot establish a violation of the California Civil Code or Title III of the

1 ADA because he is unable to show: (i) that he is a qualified individual with a disability within the
2 meaning of the ADA; (ii) that he was excluded from participation in or denied the benefits of
3 property, services or products, or was otherwise discriminated against by Defendant; (iii) that any
4 exclusion was by reason of his disability; (iv) that he suffered any injury in fact; and/or (v) that
5 there is any imminent threat of future harm..

6 **EIGHTEENTH AFFIRMATIVE DEFENSE**

7 The Complaint and each of its causes of action are barred, or recovery reduced, by
8 Plaintiff's or others' negligence in the matters complained of in the complaint, and Plaintiff's
9 recovery against Defendant, if any, is barred entirely or must be reduced by the proportion of
10 damages caused by the conduct of plaintiff by his own negligence, or the negligence of others.

11 **NINETEENTH AFFIRMATIVE DEFENSE**

12 The Complaint and each of its causes of action are barred to the extent Plaintiff consented
13 and/or acquiesced to and/or approved of the alleged conduct, if any.

14 **TWENTIETH AFFIRMATIVE DEFENSE**

15 The Complaint and each of its causes of action are barred either in whole or in part by
16 Plaintiff's failure to mitigate his alleged damages.

17 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

18 The Complaint and each of its causes of action are barred as against answering defendant
19 MBAL, LLC because the entity MBAL, LLC, a California limited liability company, did not exist
20 at any of the times alleged as violations in the Complaint. Defendant MBAL, LLC was formed as
21 an entity with the State of California on April 1, 2016, which date post-dates all alleged violations
22 in the Complaint.

23 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

24 The Complaint and each of its causes of action are barred as against answering defendant
25 MBAL, LLC because the entity MBAL, LLC, a California limited liability company, did not
26 own, operate or control the real property alleged in the Complaint on the dates of alleged
27 violations claimed therein. Defendant MBAL, LLC took title to the real property alleged in the
28 Complaint on July 13, 2016. The real property and business alleged in the Complaint has been

closed and not open to the public since MBAL, LLC took title to said real property.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The Complaint and each of its causes of action are barred as against answering defendant MBAL, LLC because the entity MBAL, LLC, a California limited liability company, did not own, operate or control the business alleged in the Complaint on the dates of alleged violations claimed therein. Defendant MBAL, LLC was formed as a legal entity on April 1, 2016, and took title to the real property alleged in the Complaint on July 13, 2016. The real property and business alleged in the Complaint has been closed and not open to the public since MBAL, LLC took title to said real property.

WHEREFORE, Defendant prays:

1. That Plaintiff's Complaint be dismissed as to MBAL, LLC;
2. That Plaintiff take nothing by reason thereof;
3. That judgment be entered in favor of Defendant MBAL, LLC;
4. That Defendant MBAL, LLC be awarded attorneys' fees and costs of suit; and
5. For such other and further relief as the Court may deem just and proper.

DATED: December 28, 2016

RAMSEY LAW GROUP

By: /s/ Stephen M. Judson

STEPHEN M. JUDSON

Attorneys for Defendant MBAL, LLC